

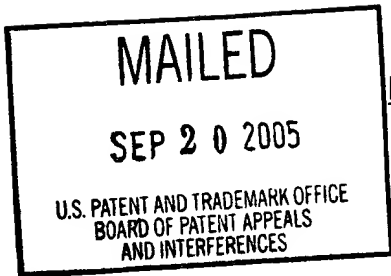
UNITED STATES PATENT AND TRADEMARK OFFICE

\_\_\_\_\_  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_

Ex parte PETER-HANS WILD and EBERHARD KRAFT  
\_\_\_\_\_

Application No. 09/961,365  
\_\_\_\_\_

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_



This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on June 22, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

- (1) On July 20, 2005, appellants filed an Information Disclosure Statement (IDS). The IDS needs to be considered by the primary examiner with respect to compliance under the criteria set forth in 37 CFR §§ 1.97 and 1.98.
- (2) In the Examiner's Answer mailed January 26, 2005, one of the references relied upon in the rejections is a Japanese reference to Yasuhito et al. (JP 05-83516). We have been unable to locate an English translation of this reference in the electronic file.

It is essential that the BPAI has a copy in the English language of any non English reference being relied upon by the examiner during its disposition of an appeal, and it is the incumbent upon the Examiner to supply such copy.

(3) The Examiner's Answer mailed January 26, 2005, seems to have been drafted under 37 CFR § 1.192(c). However, 37 CFR § 1.192 was abolished on September 13, 2004, and replaced by 37 CFR § 41.37, and as such the answer should have been drafted according to the 37 CFR § 41.37 standards. A substitute examiner's answer in compliance with the new rules is required.

Accordingly, it is

ORDERED that the application is returned to the examiner for:

a) consideration of the IDS filed July 20, 2005, and notification to appellants in writing of such consideration,

b) to have an English language copy of the Yasuhito et al. (JP 05-83516) reference scanned into the Image File Wrapper (IFW) of the electronic file,

Application No. 09/961,365

c) to vacate the Examiner's Answer mailed January 26, 2005, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004, and

d) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



CRAIG FEINBERG  
Program and Resource Administrator  
(571) 272-9797

CF/vsh

cc: GREENBLUM & BERNSTEIN, P.L.C.  
1950 ROLAND CLARKE PLACE  
RESTON, VA 20191